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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,288	03/29/2000	Masao Okada	862.C1871	7078
5514	7590	05/03/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			PANDYA, SUNIT	
		ART UNIT	PAPER NUMBER	
		3714		

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/537,288	OKADA ET AL.
Examiner	Art Unit	
Sunit Pandya	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 17, 19-28, 32-38 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 17, 19-28, 32-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17,19-28 and 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Attenberg US Patent 5,913,019 in view of Drake et al US Patent 5,487,010 and Frey et al US Patent 6,369,908. Attenberg discloses all of the instant application including plurality of background patterns, image display, image generating and editing means, printing apparatus but does not specifically disclose the use of a virtual keyboard and specific memory devices or that a character string may be assigned to each logical layer. Specifically Attenberg discloses in Column 2 that the machine uses a touch screen to operate all functions from a displayed user friendly menu, a plurality of backgrounds, users may choose from among a menu of different computer generated, background or foreground images, multiple images on the same sheet that may be peeled off separately, that the user may modify the image, a composite image. Columns 3 and 4 disclose the use of a keypad, keyboard and a touchscreen. Columns 5 and 6 disclose that the stickers may have a variety of intended uses and that electronic processing techniques for generating first electronic image information from a projected image and for electronically incorporating a background image into the first electronic

image information are well known in the art. Specifically this step includes the electronic incorporation into the image of the user of a background image selected by the user from among the multiple background images presented on the display. Column 6:16-21 disclose that techniques for electronically formatting and generating the electronic multiple information from the electronic single image information such that a printer will print out multiple images of the same image on a single sheet, are well known to those skilled in the art. Column 6:60-65 disclose that it is possible to eliminate the keypad and the functions performed by the keypad be installed in a touch screen. Column 7 discloses modifying the image and column 8 discloses a currency acceptor. With respect to a re-editing function this is seen as an obvious matter of choice well within the capabilities of one skilled in the art of program design. If one wants to have the user go back and edit each layer then the user could have the option to re-edit the layer. This would fall under the disclosure of column 5 lines 60-65 that electronic processing techniques for generating first electronic image information from a projected image and for electronically incorporating a background image into the first electronic image information are well known in the art and will not be further described herein. Column 8 also discloses that the composite image is made up of a plurality of layers and the multiple image file is generated from the saved captured images (layer 1 and layer 2 and a foreground image). This is an ordered layering system. Attenberg lacks in disclosing the use of a virtual keyboard used with a touch screen and specific memory devices. However, Attenberg discloses the use of a keyboard and that it is well known to place the functions of a keypad, which is a simplified version of a keyboard,

onto a touch screen and that the composite image is stored in a memory device. In an analogous invention to Drake discloses a bumper sticker making apparatus, which discloses that a touch screen and a keyboard are analogous, input devices in column 1:45-51. Drake discloses allowing the user to present the user's own customized slogan. With respect to the specific types of stickers Attenberg and drake have the apparatus to print and layout any type of background, foreground and text. Drake also discloses in column 5 lines 35-65 the use of a motherboard and conventional memory means attached thereto. In an analogous invention to Frey therein is disclosed that it is an object of the invention to have a device, which can create an electronic image of the user and to which the user can selectively add textual messages, audio data and other visual images. Column 4 lines 1-32 state that it is known to add a banner to the image as another graphical layer. Column 5 lines 57-63 discloses that the cpu uses standard software programs that are known in the art field to combine the electronic image captured by the camera, the optional superimposed banner, the optional audio message, and the optional text message into electronic files. Attenberg, Drake, and Frey are analogous inventions in that they are both related to sticker making kiosks. One of ordinary skill in the art would implement a virtual keyboard into the present machines given the motivation above that the functions of a keypad may be transferred to a touch screen and that a touch screen and a keyboard are analogous input devices for use in a sticker printing machine as disclosed by Attenberg. Additionally, one of ordinary skill in the art would understand the use of a plurality of types memory means for use in a computer environment the exact type of which would be an obvious choice

well within the capabilities of one skilled in the art and selectable from a plurality of conventional memory devices and types. Specifically, with respect to the type of image file used, bit map, one of ordinary skill in the art would understand that any file type that captures an image could be used. It would be obvious to one of ordinary skill in the art to implement a virtual keyboard in either of the references given the motivation that the sticker printing kiosks use touch screens.

***Response to Arguments***

Applicant's arguments filed 9/22/2005 have been fully considered but they are not persuasive.

The applicant argues that none of the reference separate or in combination teaches of editing a desired layer by using touch screen and re-generating image data by overlaying image data of the edited layer and image data of non-edited layers in accordance with fixed order. The examiner respectfully disagrees with the applicant. Attenberg teaches of editing a desired layer using a touch screen (Column 2) and re-generating image data (column 7). Attenberg also teaches of plurality of layers and multiple image files generated from saved captured images (column 8), wherein Attenberg is capable to allowing the user to go back and edit each layer and the re-generating image data accordingly.

The applicant argues that none of the reference separate or in combination teach of "preliminary processor means", which included copying data, which is stored in the storage medium and is subject to being written at least while the OS is operating, and

are accessible by a CPU in a First Stage as recited in claim 27 (wherein the important benefit of the structure recited in claim 27 is that the claimed sticker printing apparatus can be stably started). The examiner respectfully disagrees with the applicant. Frey discloses of electronic storage device (column 2 lines 38-56) and in Column 5 lines 57-63 teaches of the CPU using standard software programs to coordinate various activities such as copying data stored in storage medium and is accessible by the CPU using the software program, which are known in the art. The said software program allows the printing machine to be stable and work effectively. The reference Frey teaches of a preliminary processing means as recited in claim 27 in more details in Columns 4 & 5. The combination of Attenberg, Drake and Frey teach of all of the claimed limitations as disclosed in the claims

For the reasons provided above the rejection is maintained by the examiner.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunit Pandya whose telephone number is (571) 272-2823. The examiner can normally be reached on M - F: 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert OLSZEWSKI can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SP

CORBETT B. COBURN  
PRIMARY EXAMINER